

**MINUTES OF THE CITY COUNCIL  
REGULAR MEETING  
Wednesday, September 12, 2007**

**CALL TO ORDER/ROLL CALL**

**Mayor Cooper** called the regular City Council meeting of September 12, 2007 to order at 6:10 p.m.

Present: Mayor Cooper, Mayor Pro Tempore Leary, Council Members Davis, Hume, and Scherman

Absent: None.

**Boy Scout Troop 118** led the Pledge of Allegiance.

Mayor Cooper asked that a moment of silence be observed.

**APPROVAL OF AGENDA**

***Motion: M/S Leary/Hume to approve the agenda, continuing Agenda Item No. 8.1 to a future meeting. The motion passed by the following vote: Ayes: 5; Noes: 0.***

**CLOSED SESSION**

None.

**PRESENTATIONS/ANNOUNCEMENTS**

**Agenda Item No. 4.1:** Mayor Cooper presented a Certificate of Recognition to the Cal Ripken 10 and Under World Series Champions Laguna Youth Baseball Team

**Agenda Item No. 4.2:** Council Member Scherman presented a proclamation proclaiming September 9 – 15, 2007 as National Senior Center Week to Therese Schulz of the Elk Grove Senior Center

**Agenda Item No. 4.3:** Howard Sihner, Old Town Elk Grove Foundation President, presented Hank Stevens with a \$500 check for taking first place in the photo contest hosted by the OTEGF and Phillip Stark

**Agenda Item No. 4.4:** Rob Bremault, Key Account Representative of Sacramento Municipal Utility District for cities and counties in the SMUD service territory, presented a plaque to the City of the Elk Grove for its participation in the Greenergy Program. Mayor Pro Tempore Leary accepted the plaque on behalf of the Council. Mr. Bremault reported that Elk Grove is the only city in its territory that is paying more for renewable energy as part of SMUD's portfolio of energy services. Elk Grove is a leader in setting the standard for retrofit solar by relieving the permit fees for solar installations on retrofit homes.

**Public Comment:**

**Linda Beattie** mentioned that she was one of the first to receive a "zero dollar" and expedited permit on her home's ground mounted solar project, as well as the SMUD rebate and tax credit. She estimated that in 12 to 14 years her energy bill savings will have covered the expense of the project.

**PUBLIC COMMENT** (On Non-Agenda Items)

**Michael Steiner** thanked Deputy City Manager Cody Tubbs and Transit Manager Carlos Tobar for taking prompt action in addressing issues raised at the August 22 Council meeting related to e-tran. He noted that comments made at that meeting were not critical of e-tran services as a whole.

**Linda Beattie** reported that this was the third summer that riders have suffered with buses that cannot operate properly in 95 plus degree weather. On August 29, Ms. Beattie was riding in bus 95-952 with no air conditioning at a time when the outside temperature was 104. She expressed health and safety concerns for the drivers and the elderly. On August 30, she rode in a charter bus; however, they are not handicap accessible. On September 11, a charter bus (for the second morning trip on route 59) had no lift, nor was its two-way radio working. A handicapped rider had to wait an additional 25 minutes (without a bench) for another bus to come that she was able to access. Consequently, she missed her downtown Regional Transit connection and was late to work. Ms. Beattie submitted a written statement (filed).

**Linda Ford** read a statement on behalf of Steve Detrick in which a request was made that Council place an item on a future agenda to consider changing its rules so that, the only eligible Council Member that can be elected as Mayor, would be one that is not running for reelection.

**Michael Monasky** expressed concern about the use of charter buses, as they are too large for city streets. Charter buses are not designed for short trips and do not accommodate city passengers with baggage and bicycles. In addition, the buses are not compliant with Americans with Disability Act regulations. He suggested that weekly reports to Council from Transit Services should also include all the bus deficiencies reported to staff. He recommended that consideration be made to a

bus rapid transit system, seven days a week, to eliminate congestion on Highway 99.

**Travell Fowler** stated that, when issues are presented to Council, support is given; however, there is a lack of cooperation from management staff of Transit Services. He felt that the \$15 million liability insurance requirement should be reduced for cab companies, so that they can serve as an alternate transportation provider.

## **CONSENT CALENDAR ITEMS**

### **PUBLIC COMMENT:**

In reference to **Item No. 6.1**, **Sarah Johnson** noted that the emergency management program specifies that it is to be headed by the City Manager and Mayor; however, Ms. Johnson felt the Chief of Police and Fire Chief ought to be in charge of the program, due to their background and expertise in such matters.

In reference to **Item 6.14**, **Michael Monasky** felt that the expenditure was excessive. He acknowledged that bus amenities are needed, as are crosswalks with hash marks at intersections, additional bus stops, trees, benches, wider sidewalks, and short automobile turning radii at intersections to decrease speed.

***Motion: M/S Leary/Scherman to approve the Consent Calendar, removing items 6.3, 6.10, 6.12 for separate consideration. The motion passed by the following vote: Ayes: 5; Noes: 0***

**Agenda Item No. 6.1:**      **Ordinance No. 26-2007** adopted amending the Elk Grove Municipal Code to establish Chapter 9.19 of Title 9 relating to Emergency Services Organization and Functions (**Second Reading**)

**Agenda Item No. 6.2:**      **Ordinance No. 27-2007** adopted repealing Title 9 of the Elk Grove Municipal Code, with the exception of Chapters 9.36, 9.96 and 9.97, renumbering the Chapters of Title 9 and reenacting Title 9 with specific changes to various Chapters  
(**Second Reading**)

**Agenda Item No. 6.4:**      Approved City Council meeting minutes of: a) August 22, 2007 (Special Meeting); and b) August 22, 2007 (Regular Meeting) as presented

**Agenda Item No. 6.5:**      **Resolution No. 2007-192** adopted approving an extension of the term of the interfund loan from the Roadway Development Impact Fee Program Fund to the Corporation Yard fee component of the Capital Facilities Fee Program Fund to June 30, 2008

**Agenda Item No. 6.6:** Resolution No. 2007-193 adopted approving Green Parcel Map No. 05-882.00

**Agenda Item No. 6.7:** Resolution No. 2007-194 adopted approving West Vineyard Station Parcel Map No. 06-1001.00

**Agenda Item No. 6.8:** Resolution No. 2007-195 adopted accepting Subdivision Improvements for Newton Ranch Unit 2

**Agenda Item No. 6.9:** Resolution No. 2007-196 adopted authorizing the City Engineer to call for bids for the Intelligent Transportation Systems Phase 1B Project

**Agenda Item No. 6.11:** Received report on City Manager-approved purchases and contracts authorized by City Purchasing Ordinance, filed through August 31, 2007

**Agenda Item No. 6.13:** Resolution No. 2007-197 adopted authorizing the City Manager to purchase two wheelchair accessible minivans in the amount of \$81,753.29 from El Dorado Bus Sales through the State Procurement Program

**Agenda Item No. 6.14:** Resolution No. 2007-198 adopted authorizing the City Manager to release a purchase order in the amount of \$135,380.02 for bus shelters and fixtures to LNI Custom Manufacturing, Inc.

**Agenda Item No. 6.15:** Resolution No. 2007-199 adopted authorizing the City Manager to execute a contract with Martin C. Hughes, landscape architect, in an amount not to exceed \$300,000 for consultant landscape services from September 1, 2007 through September 30, 2009

*NOTE: The following items were heard out of order as indicated.*

**Agenda Item No. 6.3:** Adopt a resolution changing the designation of Mayor Pro Tempore to Vice Mayor

**Council Member Hume** asked that the draft resolution be modified to have the effective date coincide with the selection of the next Vice Mayor, so expenditures will not need to be made for reprinting business cards, letterhead, etc.

**Motion:** *M/S Hume/Leary to adopt Resolution No. 2007-200 changing the designation of Mayor Pro Tempore to Vice Mayor, effective with the next reorganization of the City Council. The motion passed by the following vote: Ayes: 5; Noes: 0*

**Agenda Item No. 6.10:** Adopt a resolution authorizing the City Manager to execute real estate related contracts and documents relative to the acquisition of property rights from Valley Hi Country Club (APN 119-0162-093) for the Elk Grove Boulevard Frontage Improvements adjacent to the Valley Hi Country Club project and amend the Fiscal Year 2007-08 budget and Capital Improvement Program by adding \$200,000 in Laguna Community Facilities District Funding to the project budget

**Council Member Davis** reported that much discussion has taken place with the residents affected by this road expansion. Due to increased traffic in the area, he believed that if the housing development were approved today it would have required a sound wall. Mr. Davis expressed his opposition to eliminating the left turn out of the community.

**Fritz Buchman**, City Engineer, clarified that the issue of whether or not left turns are allowed in conjunction with this project is a separate matter from the topic under Item No. 6.10. He acknowledged that staff's recommendation, for safety reasons, is that left turns out are not allowed at the intersection. He explained that, with left out maneuvers, the driver has to be able to identify safe gaps in the traffic stream in both directions simultaneously.

**John Danielson**, City Manager, suggested that Council proceed with the property acquisition and direct staff to return at the next meeting with a design review of the project.

**Public Comment:**

**Sherie Matheny** reported that the Laguna Lake community was developed in 1987 and she has lived there since 1997. Due to roadway changes, a concrete median strip has been constructed, which has eliminated a safe place for drivers to make a left turn out from the main gate and safely wait in the center lane until a break in traffic occurs. She asked Council to reconsider the project and not eliminate the left turn out of the Laguna Lake community.

**Heidi Kroll** also opposed the elimination of the left turn out of the Laguna Lake community and reiterated comments made by Ms. Matheny. She expressed concern about safety issues that may warrant a crosswalk for children coming to and from school.

**Nita Lawson** stated that she has lived in the Laguna Lake community for 19 years. If the project was approved as proposed, residents would be forced to exit out the back way of the community.

**Terri Briggs**, President of the Laguna Lakes Owners Association, thanked Council Member Davis for working with community residents. On behalf of the Association,

the homeowners are opposed to the elimination of the left turn lane out of the community. She stated that residents have been negatively impacted by the growth that has occurred in Elk Grove and the City's General Plan did not adequately address the Laguna Lakes community.

**Council Member Davis** agreed with moving ahead with the acquisition; however, he asked that Council consider the left turn and design options of this project at the next regularly scheduled meeting.

**Mayor Pro Tempore Leary** agreed and asked that the Chief of Police provide a report from a traffic safety perspective.

***Motion: M/S Davis/Hume to adopt Resolution No. 2007-201 authorizing the City Manager to execute real estate related contracts and documents relative to the acquisition of property rights from Valley Hi Country Club (APN 119-0162-093) for the Elk Grove Boulevard Frontage Improvements adjacent to the Valley Hi Country Club project and amend the Fiscal Year 2007-08 budget and Capital Improvement Program by adding \$200,000 in Laguna Community Facilities District Funding to the project budget; and direct staff to return design alternatives to allow a left-hand turn with a report from the Police Chief on location accidents at the next Council meeting. The motion passed by the following vote: Ayes: 5; Noes: 0***

**Agenda Item No. 6.12: Resolution No. 2007-202** adopted adding the position of Youth Services Program Manager and amending the Fiscal Year 2007-08 General Fund budget by \$135,000 to include salary and benefits

**Council Member Scherman** felt this item should have been on the regular calendar, due to the budget ramifications of adding another position. She suggested that a Police Department Youth Officer might be a better use of the funding. She believed that the position and salary were created with the input of one or two people. She asked why a job description was not presented and how the recruitment would be conducted.

**Council Member Davis** believed that youth services programs could be funded in large part by outside grants.

**Mayor Cooper** commented on changes that have occurred over time, such as armed police officers being assigned to high school campuses. He emphasized the importance of investing in the youth of the community. He reported that input on this matter was received from Elk Grove Unified School District Superintendent Steven Ladd, Ed.D., as well as Board Members.

**Mayor Pro Tempore Leary** expressed support for the position and noted that it would be less expensive to help at-risk youth now, as opposed to dealing with situations after problems occur.

**Council Member Hume** agreed with Ms. Scherman's reticence with regard to the burden on an already constrained budget. He felt that qualifications for the position were paramount and suggested that a degree in psychology or child development would be preferable over public administration.

**Frank Oviedo**, Deputy City Manager, reported that staff considered comparable positions in the Bay Area because they were not able to locate any in the Sacramento region. A list of essential duties was included with the staff report and specific duties will be defined once the position is filled.

In answer to questions posed by Council Member Scherman, Budget Manager **Michael McGrane** acknowledged having reported at the time of the 2007-08 budget adoption that sales tax was slowing down and the budget was balanced using some one-time sources. He stated that there were one-time sources to fund this position; however, staff recommends matching ongoing expenses with ongoing resources.

**Council Member Scherman** stated that she would support the item to make it a unanimous vote; however, she hoped the position would not be filled soon. She recommended that a statewide recruitment be done and that a master's degree would be preferable.

Mr. Oviedo stated that the qualifications in the job description would be amended to include a degree in psychology, childhood development, recreation, or equivalent experience.

***Motion: M/S Scherman/Davis*** to adopt a resolution adding the position of Youth Services Program Manager and amending the Fiscal Year 2007-08 General Fund budget by \$135,000 to include salary and benefits, expanding the Education requirement to include psychology, child development, and recreation or equivalent experience. ***The motion passed by the following vote: Ayes: 5; Noes: 0***

## **PUBLIC HEARINGS**

**Agenda Item No. 7.1:** Continued public hearing to consider proposed Municipal Code and Zoning Code Amendments

### **RECOMMENDATION:**

*Municipal Code*

The Planning Commission recommends that the City Council:

- Introduce and waive the full reading, by substitution of title only, an Ordinance amending the Elk Grove Zoning Code, Title 23 of the City's Municipal Code; and

- Introduce and waive the full reading, by substitution of title only, an Ordinance amending various chapters of the Elk Grove Municipal Code for consistency with the City's Zoning Code; and

*General Plan*

- Uphold the Planning Commission's recommendation to direct staff to initiate an amendment to the City's General Plan to amend Land Use Policy LU-2 to reduce the allowable density in the Estate Residential designation from 4.0 to 3.0 units per acre; **or**
- Direct staff to initiate an amendment to the City's General Plan to amend Land Use Policy LU-3 to add RD-4 as a consistent zoning district under the Estate Residential designation.

**Mayor Cooper** declared the public hearing open at 7:34 p.m.

**Christopher Jordan**, Planner, provided an overview of the staff report and recommendation. He noted that a public request was received following the Planning Commission hearing from Elena Bularin to permit an adult daycare facility in an office/industrial district (letter included with staff report).

Mr. Jordan stated that the Planning Commission is recommending the Estate Residential category be revised to span up to three units an acre versus four. Its recommendation is to not amend LU-3, but to amend LU-2 to lower the density threshold for Estate Residential and low-density residential. He explained that if the Planning Commission recommendation were approved, legal nonconforming sites would be created, for which the staff report identifies potential impacts. There are also a number of pending projects that have been recently approved by the City that include RD-4 development in the estate residential category and there is a potential fiscal impact to this change. The staff report identifies a potential \$5 million shortfall for some fees. The recommendation from the Planning Commission is adoption of the code amendments as presented, with the addition of the following changes to the City's Zoning Code as presented via "green sheet" (filed):

*Section 23.10.050:*

*(1) Membership and Term. There shall be five members of the Planning Commission. Commissioners shall not be employees of the City, but shall be residents of the City. Each member of the City Council shall appoint one member to the Commission. Each member shall serve at the pleasure of his or her appointing Council Member. Initial appointments, subsequent appointments, and/or reappointments by Council Members shall be made every two years, prior to February 1 of each odd-numbered year commencing in the year 2005. There shall be no maximum number of terms that may be served by an individual member.*

*(3) Compensation. Each appointee to the Planning Commission shall receive compensation as determined by ordinance, resolution, or other formal action of the City Council.*

**PUBLIC COMMENT:**

**Elena Bulanin** stated that she would like to open an elderly daycare facility in Elk Grove. She found a facility in an MP zoned area, which allows childcare, community centers, and medical services. She asked Council to add adult daycare facilities to the list of allowed businesses in the MP and BP zones.

**Hemanta Agarwala** asked Council to consider grandfathering in pending applications.

**Janet Toppenberg**, Chief Executive Officer of the Elk Grove Chamber of Commerce, encouraged Council to provide City staff with flexibility to make minor changes when necessary to assist with projects that will help create more jobs.

**Olesya Tribukait** noted that, in regard to estate residential zoning on page 15, staff had mentioned that there would be a shortfall in fees collected because of the reduction in units from RD-4 to three dwellings per acre. This will amount to \$25,000 per unit, as well as a shortfall in real estate taxes collected throughout the years. She estimated at least \$1 million for 199 units in real estate taxes, which would not be collected on an annual basis, in addition to the \$5 million impact staff had reported. She believed this to be a critical mistake and urged Council not to make the change.

**Mayor Cooper** closed the public comment opportunity and declared the public hearing closed at 7:51 p.m.

In response to Council Member Hume, Planning Director **Christine Crawford** stated that staff agrees with the request from Ms. Bulanin to add adult daycare facilities to the list of allowed businesses in the MP and BP zones.

**Council Member Davis** expressed support for staff's recommendation to amend Land Use Policy LU-3 to add RD-4 as a consistent zoning district under the Estate Residential designation.

**Council Member Hume** replied that he preferred the Planning Commission's recommendation to amend Land Use Policy LU-2 to reduce the allowable density in the Estate Residential designation from 4.0 to 3.0 units per acre; however, he would go along with the consensus of Council.

**Motion:** **M/S Scherman/Leary** to: 1) Introduce and waive the full reading, by substitution of title only, **Ordinance No. 28-2007** amending the Elk Grove Zoning Code, Title 23 of the City's Municipal Code; 2) Introduce and waive the full reading, by substitution of title only, an **Ordinance No. 29-2007** amending various chapters of the Elk Grove Municipal Code for consistency with the City's Zoning Code, including provisions on Membership and Term and Compensation of Planning

Commissioners, to amend to allow Adult Day Care in BP and by Conditional Use Permit in MP (Table 23.34-1); and **3)** direct staff to initiate an amendment to the City's General Plan to amend Land Use Policy LU-3 to add RD-4 as a consistent zoning district under the Estate Residential designation. ***The motion passed by the following vote: Ayes: 5; Noes: 0***

**Agenda Item No. 7.2:** A public hearing to consider the Cookson Special Planning Area (SPA) Amendment to modify the Triangle SPA Land Use Plan map, redesignating a 5-acre parcel from Residential 1-acre to Commercial Overlay

**RECOMMENDATION:**

The Planning Commission recommends that the City Council introduce and waive the full reading, by substitution of title only, an Ordinance amending the Triangle Special Planning Area (SPA), adding a Commercial Overlay to Assessor Parcel Number 134-1100-056 for the Cookson SPA Amendment Project #EG-06-1093, subject to the Findings and Conditions of Approval.

**Mayor Cooper** declared the public hearing open at 7:53 p.m.

**Sarah Kirchgessner**, Planner, provided an overview of the staff report and recommendation.

**PUBLIC COMMENT:**

**Dave Power** spoke in opposition to project approval.

**Jennifer Daw** of Holloway Rasmusson & Molodanof, representing the applicant, Jerry Cookson, explained that this matter is to accommodate the loss of 1.8 acres of the six acre commercial property, due to the roadway alignment and intersection of Elk Grove Boulevard and Grant Line Road. She asked for Council's approval.

With no additional public requests to speak, **Mayor Cooper** closed the public comment opportunity and declared the public hearing closed at 7:58 p.m.

**Motion:** ***M/S Leary/Scherman*** to introduce and waive the full reading, by substitution of title only, **Ordinance 30-2007** amending the Triangle Special Planning Area (SPA), adding a Commercial Overlay to Assessor Parcel Number 134-1100-056 for the Cookson SPA Amendment Project #EG-06-1093, subject to the Findings and Conditions of Approval. ***The motion passed by the following vote: Ayes: 5; Noes: 0***

**Agenda Item No. 7.3:** A public hearing to consider adoption of a resolution approving the Fiscal Year 2006-07 Consolidated Annual Performance and Evaluation Report

**RECOMMENDATION:**

Adopt resolution approving the Fiscal Year 2006-07 Consolidated Annual Performance and Evaluation Report.

Council waived the verbal staff report from Sarah Bontrager, Community Development Block Grant Program Manager.

**Mayor Cooper** declared the public hearing open at 7:59 p.m.

With no public requests to speak, **Mayor Cooper** closed the public comment opportunity and declared the public hearing closed at 7:59 p.m.

**Motion: M/S Leary/Davis to adopt **Resolution No. 2007-203** approving the Fiscal Year 2006-07 Consolidated Annual Performance and Evaluation Report. ***The motion passed by the following vote: Ayes: 5; Noes: 0*****

*NOTE: The City Council recessed at 8:00 p.m. and reconvened at 8:06 with all members present.*

**Agenda Item No. 7.4:** Appeal by Petrovich Development Company of the Planning Commission's decision on August 16, 2007 to deny the Design Review and Special Planning Area amendment for the Elk Grove Boulevard and Waterman Pharmacy (EG-06-1022; APN 134-0050-001)

**RECOMMENDATION:**

In response to this appeal, the following actions are available to the City Council:

1. Uphold the Planning Commission denial of the Elk Grove Boulevard and Waterman Pharmacy Design Review; or
2. Support the applicant's appeal of the Elk Grove Boulevard and Waterman Pharmacy Design Review project and direct staff to prepare a Resolution, Findings, and Conditions for approval of the project at a subsequent Council meeting; or
3. Continue the Elk Grove Boulevard and Waterman Pharmacy Design Review project and direct the applicant to make changes as necessary.

**Mayor Cooper** declared the public hearing open at 8:06 p.m.

**Nina Stevens**, Planner, provided an overview of the staff report and recommendation. She reported that, on September 10, the applicant presented three alternative site plans; however, they have not yet been reviewed by the

Planning Commission. The project is located on the southwest corner of Elk Grove Boulevard and Waterman Road at the eastern gateway to the Old Town Special Planning Area (SPA). Ms. Stevens stated that there were four standards of the Old Town SPA to which the previous site plan did not comply: 1) Hard Scaping – The Old Town SPA design standards and guidelines stipulate that the pedestrian amenities shall be provided along the entire building front for new development; 2) Storefront – Dark colored, reflective, or obscure glazing is prohibited. Maximizing glazing is encouraged to provide visual access to buildings primary activity. 3) Access – Primary pedestrian access to all buildings shall be through an entry on the street side (i.e. Elk Grove Boulevard). Entries should be well defined and face directly to the main public street or street corner and be well illuminated. 4) Architecture – Franchise architecture or corporate prototype design is prohibited. Building elevations shall be designed to fit into the surrounding character of Old Town.

Ms. Stevens noted that the Council will also need to consider the policies regarding trees and building setback standards. The SPA requires a maximum 7.5 foot building setback for Elk Grove Boulevard. The goals and policies of the General Plan calls for the preservation of oak trees. The project site contains two oak trees. Enforcing the setback would force the removal of the oak trees and the proposed trail; however, it would continue the street wall to the maximum extent feasible, as called for in the Old Town SPA.

**Paul Petrovich** reported that Rite Aid has agreed to proceed with the project without the drive-through, as was requested by Council at a previous meeting. With the aid of an overhead presentation (filed) Mr. Petrovich stated that he proposed to rotate the building 90 degrees to allow for sufficient parking to the west of the building. The corner entrance faces Elk Grove Boulevard. Site plan alternative three sets the building back 7.5 feet from the street; however, he suggested that concessions be made so that the oak trees do not have to be removed. A brick masonry building in earth tone colors is proposed with three times as much glass as the Rite Aid prototype uses. Frosted and clear vision glass will be used. Mr. Petrovich stated that he would place as many benches at the site as are desired. With the changes outlined, Mr. Petrovich believed that 100% of the SPA guidelines have been met.

#### **PUBLIC COMMENT:**

**Sarah Johnson** submitted a letter from the Sheldon Community Association (filed). She stated that there has not been adequate time to review the new plans that Mr. Petrovich submitted. In addition, she noted the bench type that Mr. Petrovich displayed was not correct. There have been repeated requests for signage, lighting, and landscaping plans; however, they have not been forthcoming.

**Anita Peters**, President of the Elk Grove Historical Society, urged Council to reject any plan that does not abide by all the standards of the Old Town SPA. She felt

that the process has not been followed and objected to plans being submitted by the applicant to the City Council without prior review.

**Howard Sihner** referred to Mr. Petrovich's appeal letter dated August 21, stating that he is asking the Council to review the project because the Planning Commission was too strict in applying the rules of the SPA. Mr. Sihner felt that this serves to circumvent the process. He suggested that a public workshop be held to review the new site plans Mr. Petrovich submitted.

**Steve Detrick** urged Council to follow the process and not make any exceptions. He felt that applicants should not be allowed to present changes to plans at an appeal hearing, after the original plans were denied by the Planning Commission.

**Constance Conley** asserted that the Old Town SPA is clear and not open for interpretation. She felt that Mr. Petrovich should bring the three new alternative site plans to the Old Town Elk Grove Foundation for review and then seek approval from the Planning Commission.

**Tom Russell** stated that for Council to approve the project based on changes Mr. Petrovich submitted tonight would bypass the checks and balances set in place to provide citizens with quality projects. He urged Council to uphold the Planning Commission denial and ask Mr. Petrovich to resubmit his updated plans to the Commission for its full review.

**Tal Crump** expressed his opinion that the integrity of the SPA is being challenged.

**Jennifer Myers** believed that the redesign presented by Mr. Petrovich meets with the requirements of the SPA and she supported the project.

**Brian Clemens** commented that he had not yet heard anyone articulate what is not acceptable about the revised plan that Mr. Petrovich submitted and he expressed support for the project.

**Jay Hyde** suggested that the Rite Aid store design that Mr. Petrovich submitted appears to be the same store they built in Fresno. He felt that the site plan could be modified to both preserve the trees and retain the urban look. He stated that the storefront entrance should be on the corner of Waterman and Elk Grove Boulevard and urged Council to reject the appeal.

**Kathy Lee** stated that developers should follow the process, noting that neither citizens nor the Planning Commission have had an opportunity to review the new plans.

**Kathy Cole** expressed support for the proposal submitted by Mr. Petrovich.

**Steve Upton** supported the project as presented and was opposed to the removal of the oak trees.

**David** (*no last name provided*) pointed out that many stores located in the Old Town area are typical franchise type stores. He supported the project Mr. Petrovich submitted.

**Mayor Cooper** closed the public comment opportunity and declared the public hearing closed at 8:54 p.m.

Mr. Petrovich stated that no one had brought up a single SPA condition that his proposal is not meeting. He noted that the new site plans merely rotate the building 90 degrees, they are not entirely new. He admitted that the process, which has taken three years, could have been done better; however, he has made significant efforts in communication during the past six months.

**Council Member Scherman** recommended that a public workshop be held within the next 30 days.

**Council Member Hume** was opposed to the removal of the oak trees, which aesthetically act to soften the building. He suggested that the Historic Preservation Committee be involved in the review. He preferred site plan alternate two, although he felt to a certain extent, it still meets the definition of corporate architecture, specifically with respect to the white and blue awnings. He liked the idea of creating shadow boxes at the windows adjacent to the oak trees. He had heard complaints about how the trail system meets up with other properties. He recommended exteriorly illuminated signage, rather than backlit.

**Council Member Davis** commented that this is a perfect example of why meaningful public engagement should be sought as first step in the process, and suggested that had it been done, the project would have been finished by now. He felt that the Planning Commission should review the plans recently submitted by Mr. Petrovich and make the final determination.

In response to Mayor Pro Tempore Leary's question on whether the proposed plan meets the SPA requirements, Planning Director **Christine Crawford** acknowledged that the new site plans were much closer to the SPA than what staff has reviewed previously. She noted, however, that corporate prototype architecture is subjective to a certain degree.

**Mayor Pro Tempore Leary** recalled when this project had been brought before Council previously, the only matter brought up was the issue of the drive-through, which has been removed. He suggested that the plan, which includes the 90 degree building rotation, saving the oak trees, and creating a pathway, be reviewed

by the Old Town merchants and others with a vested interest and that they bring a recommendation forward to Council.

**Council Member Davis** agreed with the proposal to hold a public workshop.

**Council Member Scherman** asked Mr. Hume to co-host the public workshop, to which he agreed.

**Motion:** *M/S Hume/Scherman* to continue consideration of the Elk Grove Boulevard and Waterman Pharmacy Design Review to the October 24, 2007 City Council meeting after having held a public workshop for interested groups, the developer, and staff. ***The motion passed by the following vote: Ayes: 5; Noes: 0***

## **REGULAR AGENDA ACTION ITEMS/RECOMMENDATIONS**

***Note: Item No. 8.1 was continued at Approval of the Agenda.***

**Agenda Item No. 8.1:** *Report on the stakeholder workshops for the affordable housing loan process and adopt resolutions: 1) approving the Affordable Housing Loan Program Guidelines and an amendment to the Fiscal Year 2007-08 budget; and 2) authorizing the formation of the Elk Grove Affordable Housing Loan Committee*

**Agenda Item No. 8.2:** City of Elk Grove Planning Academy

### **RECOMMENDATION:**

Review proposed Planning Academy course outline and provide comment as desired.

**Christine Crawford**, Planning Director, provided an overview of the staff report and recommendation. The draft budget shows start up costs at \$73,000 and additional courses at \$38,000.

In answer to questions posed by Council Member Davis, Mr. Crawford explained that the cost is for preparation time, noticing, working with participants, answering questions, etc. She noted that the budget includes costs associated with Development Services and the City Attorney's Office.

**Council Member Davis** felt that the cost estimate was high and expressed concern about Elk Grove's contract model in which costs are incurred for things that, under a traditional model, would have been absorbed by staff as an added responsibility.

**PUBLIC COMMENT:**

**Linda Ford** described the background related to the Planning Academy concept. She felt that a cost of \$111,000, which would benefit only 60 citizens each year, was unacceptable. She asked Council to table the item until other avenues are explored such as working in cooperation with the University of California Davis or exploring grant funding.

**Constance Conley** and **Sandy Russell** agreed with Ms. Ford's comments.

**Council Member Davis** noted that the League of California Cities has an educational program for Planning Commissioners.

***No Council action was taken on Item No. 8.2.***

**Agenda Item No. 8.3:** Consideration of allowing certain projects subject to Elk Grove Municipal Code Chapter 16.130.040(a) regarding mitigation for the loss of Swainson's Hawk foraging habitat to provide alternative mitigation and adopt a resolution extending the term of the interfund loan from the Elk Grove Roadway Development Fee Program Fund to the Swainson's Hawk Fund

**RECOMMENDATION:**

- 1) Provide direction regarding alternative mitigation for pipeline and future projects; and
- 2) Adopt a resolution to extend the term of the interfund loan from the Elk Grove Roadway Development Impact Fee Program Fund to the Swainson's hawk Mitigation Fee Fund to June 30, 2012.

**Taro Echiburu**, Environmental Planning Manager, provided an overview of the staff report and recommendation.

**PUBLIC COMMENT:**

**Gene Robinson** stated that his property is in AR-5 zoning and expressed his opinion that it is not a suitable foraging habitat for Swainson's hawks, and if it is not, the City's ordinance does not have a provision for property owners to be exempted or pay less mitigation. Mr. Robinson stated that he has a project in Planning at the present time and noted that the area has changed significantly over the years.

**Bette Robinson** pointed out that under the County's program, none of the land would be subject to mitigation fees.

**Gene Robinson** reported that he surveyed the cities of Galt, Rancho Cordova, Folsom, and Sacramento and none of them have fees similar to Elk Grove's.

Further, Mr. Robinson stated that neither he nor his wife have seen Swainson's hawks nest or forage on their property.

**Teri Lawrence** stated that the fees were not in place when her project was zoned AR-2. The market has changed significantly since 2005 and the fees are now too high. She asked that her "pipeline" project be grandfathered in at the old fee. She did not believe her property was ever suitable Swainson's hawk habitat.

**Philip Harvey**, Senior Vice President of Development for Petrovich Development Company, supported the reduction in fees for "pipeline" projects and asked that his two projects (i.e. Calvine Point and Rite Aid) be included.

**Judy Jacobs** explained that Crooked Creek Estates is a 66 acre project with multiple zoning, a school, park, 19 acres of residential, and a balance of open space and some industrial. When the project was originally submitted the fee was \$4,300. Today the fee is \$18,325 an acre, which Ms. Jacobs stated, renders the project economically unfeasible. She asked Council to set the fees back to the original amount.

**Thad Johnson** of Pappas Investments noted that he had submitted a letter to Council asking that the Fieldstone South project be included in the list of "pipeline" projects and to be allowed to pay the fees in effect at the time the application for the project was submitted (filed). Mr. Johnson noted that no evaluation was done of the property regarding its viability as Swainson's hawk habitat.

In reply to questions posed by Council Member Hume, Mr. Echiburu, explained that staff considered "pipeline" projects as those projects under review by the City at the time the ordinance was amended to require land for land mitigation. Those projects were either in specific plans or were over 40 acres. In reference to the vineyard property, the cost per acre was \$10,000. Adding the monitoring component for these lands would make it prohibitive. The current fee assumes a \$15,000 per acre acquisition component. At 1.5 to 1, it allows the City to purchase at \$20,000; however, it can only be sold acre per acre. The City is passing on the savings at the current fee level. The ordinance requiring land for land mitigation came into effect on July 21, 2004 and the fee was updated March 2005.

**Council Member Scherman** recalled that the original intent was for "pipeline" projects not to have to pay the higher fee, to which Mayor Cooper agreed.

In response to Council, Mr. Echiburu reported that the Fieldstone South project's application was submitted September 2004. The Sterling Meadows project has not yet been approved, whereas the other five "pipeline" projects have been. He recalled that, at the time the new ordinance went into effect, projects over 40 acres and projects that were in specific plan would be required to provide land for land mitigation. The driving force for that action was that the rising cost of land was not

allowing the City to fully mitigate at the required one to one ratio for every acre of land. When the ordinance was being considered, Council asked that other options be evaluated for the "pipeline" projects, so rather than having to provide land, perhaps they could pay a fee. Because the escalating price of land was diminishing the City's ability to mitigate for the hawk or to purchase the conservation easements with the existing fees, staff was directed to update the fee and bring back the "pipeline" projects with the intent that those projects would be allowed to pay the fee once the fee was able to mitigate at the one to one ratio; i.e. so the new \$18,000 fee would allow the City to, in effect, achieve one to one mitigation.

**Susan Cochran**, City Attorney, asked what Council's intention was for those who may have already paid the mitigation. It was her understanding that many of the projects have already gone through the California Environmental Quality Act process and that their mitigation measure was to pay the current fee. If the methodology and the ordinance were to change, then they would be under this new program.

***Motion: M/S Hume/Scherman*** to continue discussion of alternative mitigation for pipeline and future projects to the October 24 Council meeting and to adopt **Resolution No. 2007-204** to extend the term of the interfund loan from the Elk Grove Roadway Development Impact Fee Program Fund to the Swainson's hawk Mitigation Fee Fund to June 30, 2012. ***The motion passed by the following vote: Ayes: 4; Noes: 0; Absent; Leary***

## **GENERAL ADMINISTRATION INFORMATION**

### 1. E-Van Update

**Carlos Tobar**, Transit Manager, reported that for a 21 day period time, performance was 97% with one denial. For the first 11 days of September, with 516 trips, the on time performance was 96% with no denials. The number of subscription riders has tripled since July 1 when the City took over the regional service.

## **COUNCIL COMMENTS/FUTURE AGENDA ITEMS**

Reports on Regional Boards, Commissions, Committees; and Travel/Training Expenditures Disclosure (*in accordance with Resolution 2006-295 and Government Code § 53232.3(d)*):

**Council Member Hume** stated that he was not able to attend the Sacramento Regional Transit District Board of Directors meeting on Monday; however, he reported that stopping rights were procured at three RT stops in Rancho Cordova including the Butterfield Light Rail Station. The Sacramento Transportation Authority adopted a resolution to support a funding mechanism to backfill the current Measure A in order to implement the Master Transit Plan. He asked that the

meeting be adjourned in memory of Rita Livingston who passed away last week. He noted that Rita was a long time community activist.

**Council Member Scherman** recalled that Rita Livingston contributed a significant amount of personal time to the effort of incorporating the City of Elk Grove. Ms. Scherman announced that her appointee to the Trails Committee resigned and she asked that an item be placed on the September 26 Council agenda for her to appoint a member to fill the vacancy. She reported that the California State Automobile Association office near Interstate-5 will be relocating.

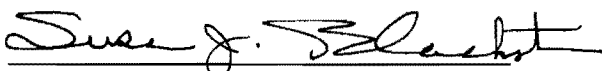
**Council Member Davis** reported that he attended the League of California Cities annual conference last week, at which it was announced that Elk Grove received the Helen Putnam Award for its street racing outreach program. He noted that many other cities have expressed an interest in using Elk Grove's model. He attended a number of informative workshops at the conference and learned that development of "green" policies is a trend. He recently learned that an adjuster's academy for the insurance industry will be locating in Elk Grove. He communicated with a group interested in the formation of a small business development center or association. He recommended that the City invest in a comprehensive market analysis of the Elk Grove community. The data would be very helpful to the Economic Development Corporation when approaching companies outside the region. It would lay the groundwork for develop a funding plan for needed facilities, and should make a focused effort on the success of Old Town. In addition, the market analysis ought to lay the groundwork for the Sphere of Influence effort that has been initiated.

**Mayor Cooper** thanked everyone that provided assistance in the street racing public education program, which won the grand prize Helen Putnam award from the League of California Cities. He recalled that a request was made for a \$30,000 contribution to go toward the incorporation efforts of Arden Arcade and asked whether Council wished to place the matter on a future agenda for consideration, following which consensus to do so was reached.

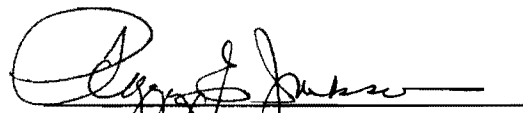
### **ADJOURNMENT**

With no additional business to conduct, the September 12, 2007 City Council meeting was adjourned at 10:33 p.m. in memory of Rita Livingston.

Minutes prepared by:



Susan J. Blackston  
Chief Deputy City Clerk



PEGGY JACKSON  
CITY CLERK

ATTEST:

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JAMES COOPER, MAYOR